

STATINTL

NOTE TO: [REDACTED]

Associate General Counsel

STATINTL

[REDACTED]

1. I was talking with Andy Ruddock on what he thought the chances were that his cost of living amendment would become law. Andy says that he feels the bill will pass before the need arises, i. e., in May, if a COL adjustment is triggered.

2. This raises the question naturally about our own legislation, which I think we should pursue without any regard to the funding question that has been raised. It might prove pretty awkward for us to have a double system of retirements relating to cost of living adjustments. If you want, let's talk about this. But I urge you to contact the Civil Service Commission on this portion of our legislation to see what the chances are for our getting the same authority as Andy is getting.

[REDACTED]
DD/Pers/SP

STATINTL

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STATINTL

Calendar No. 104

92D CONGRESS }
1st Session }

SENATE

REPORT
No. 92-103

CIVIL SERVICE RETIREMENT

MAY 12, 1971.—Ordered to be printed

Mr. McGEE, from the Committee on Post Office and Civil Service,
submitted the following

REPORT

[To accompany S. 1681]

The Committee on Post Office and Civil Service, to which was referred the bill (S. 1681) to liberalize eligibility for cost-of-living increases in civil service retirement annuities, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

This legislation would permit an employee or Member of Congress eligible for an immediate retirement annuity after a cost-of-living increase is effective, but before the next cost-of-living increase effective date, to retire and receive an annuity not less than it would have been had he been eligible and retired before the effective date. Also, the survivor annuity of an employee or Member who dies after the cost-of-living increase effective date would not be less than it would have been had it commenced on or before the effective date.

JUSTIFICATION

The Civil Service Retirement Act provides that whenever the Consumer Price Index shows a 3-percent increase for each of 3 consecutive months over the index for the base month, annuities are adjusted upward by the highest percentage of any of the 3 months plus 1 percent. The increase becomes effective on the first day of the third month following the end of the 3-month period and applies only to annuities commencing on or before the effective date. A survivor annuity is increased the same as an annuity of a retired employee.

Therefore, an employee must be eligible to retire and his annuity must commence on or before the effective date of a cost-of-living increase in order to receive the increase. This bill would permit an

employee to retire after the effective date, but prior to the next cost-of-living increase, and receive an annuity not less than it would have been if he had retired prior to the effective date.

An employee who retires on or before the effective date receives a larger annuity than an employee who does not retire until a few days following the effective date, even though both may have the same service beginning date and high 3-year average salary. The same situation exists in computing the survivor annuities for the survivor of an employee who dies immediately prior to the increase date and an employee who dies immediately after.

For example, employee A retires 1 day before the effective date of a cost-of-living increase and receives an annuity of \$985 a month. Employee B, not eligible until 1 month later, retires on an annuity of \$956, or \$29 a month less. Employee B would have to continue working for approximately 6 months in order to recover the amount lost because he was not eligible to retire by the effective date of the increase. This legislation would permit employee B to retire after the effective date and receive not less than he would have received had he retired by the effective date.

The present cost-of-living provisions, providing that the employee must retire prior to the effective date, always produce a great influx of retirement applications immediately before the effective date. For example, the last two increases, effective on November 1, 1969, and August 1, 1970, produced 25,000 and 19,800, retirement applications over the normal number of applications received.

This places tremendous burden on the Civil Service Commission to process these forms. A result is delayed annuity payments at a time when they are most needed by annuitants. S. 1681, by permitting an employee to delay retirement, would distribute more evenly the Commission's workload and thereby speed processing of retirement applications.

Employing agencies would also benefit by the enactment of this legislation. As a result of present "bunching" of retirements immediately prior to an increase effective date, many persons are reemployed as annuitants to complete projects and permit the agency to secure replacements.

Cost

Assuming that a 5 percent cost-of-living annuity increase is effective in each fiscal year 1971 through 1980, the unfunded liability would be increased by a little over \$92 million. The annual cumulative interest payment due the fund from the Secretary of the Treasury at the end of fiscal year 1981 would be a little over \$3 million.

AGENCY VIEWS

Following is a letter from the Civil Service Commission:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., March 25, 1971.

HON. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: The Commission submits for the consideration of the Congress, and recommends favorable action on, the at-

tached legislative proposal which provides that the immediate (not deferred) civil service retirement annuity of an employee or Member of Congress retiring after the effective date of a cost-of-living annuity increase shall not be less than his annuity would have been if he had retired and had been eligible for annuity on the effective date. Similarly, the proposal provides that the annuity of an employee's or Member's widow(er) commencing after the effective date of a cost-of-living annuity increase shall not be less than it would have been if it had commenced on the effective date.

Whether an employee's annuity will be greater computed on the basis of (1) service and salary up to the effective date of the most recent cost-of-living increase, plus that percentage increase or (2) all service and salary up to the date of actual separation, without a cost-of-living increase, depends on factors which vary with the individual. Assuming a normal pattern of past and future salary increases, and a 5-percent cost-of-living increase, an employee would need 3-10 additional months' service, depending on his total years of service, for his annuity without the cost-of-living increase to equal the amount he could get if he had retired on the effective date of the cost-of-living increase. Under the proposal, an employee would in all cases receive the larger annuity.

The present cost-of-living adjustment provision, found in 5 U.S.C. 8340, provides that an employee must retire and his annuity must commence on or before the effective date of a cost-of-living annuity increase in order to have it applied in the computation of his annuity. The reasons for the proposed change are:

(1) The present provision produces the anomaly of an employee who retires soon after the effective date of an increase receiving less annuity than an employee, with the same service beginning date and high 3-year average salary, who retires on or before the effective date, even though the employee who retires after the effective date has more service. A similar anomaly exists in computing a survivor's annuity because the survivor of an employee who dies on or before the effective date of a cost-of-living increase receives the increase, but the survivor of an employee who dies after the effective date does not receive it.

(2) We are concerned about the way the large number of retirements triggered by cost-of-living adjustments affects the administration of the civil service retirement system. The present cost-of-living adjustment provision "bunches" retirements immediately before the effective date of every cost-of-living annuity increase by accelerating the retirements of employees who had been planning to leave within 6 months or so after that date. The last such increase, effective August 1, 1970, for example, produced about 19,000 retirements in addition to the 5,000 or less that occur in a normal month. Despite the Commission's plans to cope with such a peak load, work is disrupted and annuity payments are seriously delayed when so many retirements that would otherwise have been evenly spaced over a period of several months occur at the same time.

(3) Agencies throughout the Government are also adversely affected because an inordinate number of employees decide to retire immediately before a cost-of-living annuity increase. Many of these people, if they are willing, must be reemployed as annuitants to complete the projects on which they were working.

Enactment of the draft bill would (1) eliminate the anomaly between annuities that commence on or just before the effective date of a cost-of-living increase and those that commence shortly after that date; (2) moderate the peaking of retirements immediately before cost-of-living increases become effective, with an estimated savings of \$250,000 in administrative expenses now charged against the civil service retirement and disability fund for processing the peak workload that accompanies each cost-of-living adjustment; and, (3) reduce the disruption in the work of agencies throughout the Government caused by many employees suddenly retiring at the same time, with many leaving work projects incomplete.

To the extent that employees delayed retirement by a few months, they would (1) pay contributions to the fund for a longer period, and (2) not receive any annuity for those months—a combination necessarily resulting in more money in the fund. On the other hand, to the extent that employees who would have retired after the effective date of the cost-of-living increase anyway receive a higher annuity than they would have received if they had retired on the effective date, more money would be paid out of the fund.

The additional annuity benefits which would be provided by the draft bill for each cost-of-living annuity increase authorized on or after its enactment would increase the unfunded liability of the civil service retirement and disability fund. Assuming, for example, that the draft bill is enacted and that then a 5-percent cost-of-living annuity increase is effective June 1, 1971, the unfunded liability of the fund would be increased by \$9.2 million. The annual interest on this \$9.2 million would be \$300,000.

Under 5 U.S.C. 8348(g), the Secretary of the Treasury, before closing the accounts each fiscal year, would have to credit to the fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the following percentages of all interest on the unfunded liability existing at the start of each fiscal year: 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; 50 percent for 1975; 60 percent for 1976; 70 percent for 1977; 80 percent for 1978; 90 percent for 1979; and 100 percent for 1980 and for each fiscal year thereafter. No payment would be required for fiscal year 1971, since the liability would be incurred after the start of that year. The Secretary of the Treasury would, at the end of fiscal year 1972, have to pay into the fund 20 percent of the \$300,000 annual interest resulting from the assumed June 1, 1971 cost-of-living increase, plus, at the end of each subsequent fiscal year through 1980, the above-mentioned graduated percentages of the annual interest, so that the full \$300,000 annual interest amount would be paid at the end of fiscal year 1980 and each fiscal year thereafter.

Each additional cost-of-living annuity increase authorized subsequent to fiscal year 1971 would have a cumulative effect on the retirement fund's unfunded liability and the annual interest thereon. If, for example, there is one cost-of-living annuity increase of 5 percent in each fiscal year 1971 through 1980, the unfunded liability would be increased by a little over \$92 million; and the annual cumulative interest payment due the fund from the Secretary of the Treasury at the end of fiscal year 1981 would be a little over \$3 million.

The Office of Management and Budget advises that there is no objection from the standpoint of the administration's program to the submission of this draft bill to Congress.

A similar letter is being sent to the Speaker of the House.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON;
Chairman.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be enacted is enclosed in black brackets; new matter is shown in italic):

TITLE 5, UNITED STATES CODE

* * * * *

§ 8340. Cost-of-living adjustment of annuities

(a) Effective December 1, 1965, each annuity payable from the Fund having a commencing date before December 2, 1965, is increased by—

(1) the percent rise in the price index, adjusted to the nearest $\frac{1}{10}$ of 1 percent, determined by the Civil Service Commission on the basis of the annual average price index for calendar year 1962 and the price index for the base month of July 1965; plus

(2) $6\frac{1}{2}$ percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred before October 2, 1956, or $1\frac{1}{2}$ percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956.

Each annuity payable from the Fund (other than the immediate annuity of an annuitant's survivor or of a child entitled under section 8341(e) of this title) having a commencing date after December 1, 1965, but before January 1, 1966, is increased from its commencing date as if the annuity commencing date were December 1, 1965. Each survivor annuity authorized by—

(A) section 8 of the Act of May 29, 1930, as amended to July 6, 1950; or

(B) section 2 of the Act of June 25, 1958 (72 Stat. 219);

is increased by any additional amount required to make the total increase under this subsection equal to the smaller of 15 percent or \$10 a month.

(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the third month that begins after the price index change equals a rise of at least 3 percent for 3 consecutive months over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by 1 percent plus the percent rise in the price index (calculated on the highest level of the price

index during the 3 consecutive months) adjusted to the nearest $\frac{1}{10}$ of 1 percent.

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.

[(1)] (2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.

[(2)] (3) For the purpose of computing the annuity of a child under section 8341(e) of this title that commences on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 8341(e) of this title shall be increased by the total percent increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 percent and 75 percent appearing in section 8341(e) of this title shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

(d) This section does not authorize an increase in an additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar. However, the monthly installment shall after adjustment reflect an increase of at least \$1.

(f) Effective September 1, 1966, or on the commencing date of annuity, whichever is later, the annuity of each surviving spouse whose entitlement to annuity payable from the Fund resulted from the death of—

- (1) an employee or Member before October 11, 1962; or
 - (2) a retired employee or Member whose retirement was based on a separation from service before October 11, 1962;
- is increased by 10 percent. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 576, amended Pub. L. 90-83, § 1(79), Sept. 11, 1967, 81 Stat. 215; Pub L. 91-93, § 204, Oct. 20, 1969, 83 Stat. 139.)

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